

**GOVERNMENT OF TELANGANA**  
**ABSTRACT**

Ayush - Dr. Y. Eshwaraiah, Medical Officer (Retd.), Government Ayurvedic Dispensary, Medak District – Implementation of Andhra Pradesh Administrative Tribunal orders dt.31.01.2014 in O.A. No.6637/2010 – Notional Promotion in the cadre of Senior Medical Officer for the panel year 2003-04 – Orders – Issued.

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**HEALTH MEDICAL & FAMILY WELFARE (E1) DEPARTMENT**

**G.O.Ms.No. 104**

**Dated: 24-06-2017**

**Read the following:-**

1. Andhra Pradesh Administrative Tribunal orders dt.31.01.2014 in O.A. No.6637/2010.
2. From Government Pleader for services (T.S), High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh Opn.No.183/2014/MVRR/Ser/HC, dt.26.8.2017 & Opin No.262 /2016 /MVRR / Ser/HC, dt.15.12.2016.
3. From the Commissioner (I/c), Dept. of AYUSH, Telangana, Hyderabad Letter No. 11691/B1/2010, dt.17-11-2015 & DT.12.1.2017.
4. From the Asst. Registrar, Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh orders dt.08.6.2017 in W.P.No.18312 of 2017.

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**ORDER:-**

The Hon'ble Andhra Pradesh Administrative Tribunal in its orders dt.31.01.2014 in O.A. No.6637/2010 first read above has directed the respondents to promote the applicant to the post of Senior Medical Officer with retrospective effect, subject to his otherwise eligibility, seniority, from the date of arising of vacancy in the particular panel year, with all consequential benefits, and accordingly fix his pay scale / pension. The notional promotion shall be without monetary benefit, but it shall be counted for the purpose of pay fixation and pension. Appropriate orders in this regard shall be passed within a period of three months from the date of receipt of a copy of this order, as the applicant has retired from service a decade ago.

2. When the matter referred to General Administration (Ser.A) Department, they have offered the following remarks:

"..... that panels are to be prepared in general during the month of September every year on the basis of estimate of vacancies in terms of sub-rule(d); and if no panel is prepared for any year in exceptional circumstances for any reason such as, seniority disputes, court cases, administrative grounds etc., the vacancies of such panel year also to be taken into account, while estimating the vacancies of such panel year also to be taken into account, while estimating the vacancies under sub-rule(d) for the subsequent panel year. The persons who were included in the previous panel, but have not commenced their probation, are also to be considered afresh for inclusion in any panel prepared under sub-rule(b) or (c), but it is not necessary to arrange their names in the same order in which they were arranged in the previous panel. The person, whose name was included in any panel for any post, has no right for appointment to such post.

3. The Department are further informed that, One Man Commission was entrusted to comprehensively examine, revise and up-date the AP State and Subordinate Service Rules popularly known as General Rules among other Special Rules. Based on the report submitted by the said Commission and in supersession of the A.P. State and Subordinate Service Rules, 1962 (Part I and Part-II) issued in G.O.Ms.No.418, General Administration Department, dt.7.3.1962 as amended from time to time, Government have issued State and Subordinate Service Rules, 1996 vide G.O.Ms.No.436, General Administration (Ser.D) Department, dt.15.10.1996. As such, the orders issued in G.O.Ms.No.354. General Administration (Ser,A) Department., dt: 11.5.1990 have no relevance as the said orders were superseded by G.O.Ms.No.436, General Administration Department, dt.15.10.1996.

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4. Further, as per existing rules, a retired employee will have right to be considered his name for notional promotion on par with his junior, if any of his juniors were given promotion prior to his retirement and this was confirmed by the Hon'ble Apex Court in Bajinath Sharma Vs Hon'ble Rajasthan High Court (1987(7) SCC44). In the instant case, no junior to the individual was promoted prior to his date of retirement i.e. 30.06.2004.

5. When the file was sent to Law Department, they have informed that the Administrative department may examine and take appropriate action in the matter, in consultation with Government Pleader concerned.

6. The Government Pleader for service (T.S), High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in his letters 2<sup>nd</sup> read above, has opined that the Hon'ble Tribunal has having regard to the facts and relying on judgment in State of A.P and another Vs C.Srinivasulu Reddy reported in 2002 (5) ALD 697 (DB) has allowed the OA and directed to give notional promotion to the applicant with all consequential benefits but without monitory benefits. Since the applicant in the O.A Dr. Y. Eshwaraiah, was denied promotion though his name was approved by DPC and placed in the panel inspite of existing vacancies. He is entitled to be promoted to the post of Senior Medical Officer notionally. He further opined that there are no grounds to file W.P. against the orders dated:31-1-2014 in O.A. No. 6637/2010.

7. The Hon'ble High Court in its orders dt.08.6.2017 in W.P.No.18312 of 2017 3<sup>rd</sup> read above has directed in the present case, if the orders passed by the Tribunal is not complied with before the next date of hearing i.e 29.6.2017, the respondents shall personally remain present in the Court on the next date of hearing.

8. After careful examination of the matter, in the light of the orders issued by the Hon'ble Courts, Government hereby decided to accord notional promotion to Dr.Y. Eshwaraiah, Medical Officer (Retd.), Government Ayurvedic Dispensary, Medak District for the panel year 2003-04 to the post of Senior Medical Officer, with retrospective effect, from the date of arising of vacancy in the particular panel year, with all consequential benefits, and accordingly fix his pay scale / pension. The notional promotion shall be without monetary benefit, but it shall be counted for the purpose of pay fixation and pension.

9. This order shall not be treated as precedent for any other case.

10. The Director (I/c), Department of Ayush, Telangana State, Hyderabad shall take necessary action accordingly.

**(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)**

**RAJESHWAR TIWARI  
SPECIAL CHIEF SECRETARY TO GOVERNMENT**

**To**

The Director (I/c), Department of Ayush, Telangana State, Hyderabad  
The individual through the Director (I/c), Department of Ayush,  
Telangana State, Hyderabad

**Copy to:**

The Government Pleader for services (T.S), High Court of Judicature at Hyderabad  
for the State of Telangana and the State of Andhra Pradesh  
The General Administration (Ser.A) Department  
The Law (A) Department  
Sf/Sc

**// FORWARDED :: BY ORDER //**

**SECTION OFFICER**